

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

JETBLUE AIRWAYS CORPORATION and
SPIRIT AIRLINES, INC.,

Defendants.

Civil Action No. 1:23-cv-10511-WGY

UNOPPOSED MOTION TO IMPOUND OF NON-PARTY THE BOEING COMPANY

Pursuant to Local Rule 7.2 and the Parties' Joint Proposed Confidentiality Protocol, filed on August 21, 2023 (ECF No. 154), non-party The Boeing Company ("Boeing") respectfully moves the Court for an order of impoundment of a highly confidential Boeing document that the Plaintiffs have designated as an exhibit for potential use at trial, until further order of the Court.

In response to a subpoena issued by the U.S. Department of Justice pursuant to Federal Rule of Civil Procedure 45 and subject to the Stipulated Protective Order, entered by the Court on March 21, 2023 (ECF No. 66), Boeing produced to the Parties certain documents containing non-confidential information, as well as single document designated as "Highly Confidential" under the Stipulated Protective Order because it contains Boeing's competitively sensitive and proprietary business information (the "Boeing Exhibit"). The Plaintiffs have included this Highly Confidential Boeing Exhibit on their exhibit list for potential use at trial.

For the reasons set forth in the accompanying Memorandum of Law and supporting Declaration, Boeing respectfully requests that the Court impound the Boeing Exhibit and any portion of any documents or testimony that summarize or disclose the Highly Confidential

information contained in the Boeing Exhibit, including closing the court room during any discussion, if any, of the Boeing Exhibit or its contents and redacting any court documents discussing the same. The Memorandum of Law and Declaration detail good cause for impoundment. Boeing thus also requests that the Court impound the Memorandum of Law and Declaration because they summarize or otherwise disclose Highly Confidential information regarding the Boeing Exhibit. Boeing is publicly filing redacted versions of those papers contemporaneously herewith.

Boeing's request is narrowly tailored to prevent the harm that would result from the disclosure of its Highly Confidential information, as further described in the Memorandum of Law and Declaration. The Parties do not oppose the relief requested in this Motion.

WHEREFORE, Boeing respectfully requests that the Court impound the Boeing Exhibit designated by the Plaintiffs for potential use at trial and any portion of any documents or testimony that summarize or disclose the information contained in the Boeing Exhibit, including closing the court room during any discussion, if any, of the Boeing Exhibit or its contents and redacting any court documents discussing the Boeing Exhibit, until further order of the Court.

FURTHER, Boeing respectfully requests that the Court impound the accompanying Memorandum of Law and Declaration detailing good cause for impoundment of the Boeing Exhibit, until further order of the Court.

Dated: September 29, 2023

Respectfully submitted,

/s/ Joseph P. Rockers

Joseph P. Rockers (BBO No. 625020)

Goodwin Procter LLP

100 Northern Avenue

Boston, MA 02210

Tel.: (617) 570-1000

Fax: (617) 521-1231

JRockers@goodwinlaw.com

Counsel for non-party The Boeing Company

LOCAL RULE 7.1(a)(2) CERTIFICATE AND CERTIFICATE OF SERVICE

I hereby certify that The Boeing Company has conferred with counsel for Plaintiffs and Defendants regarding the foregoing requested relief and counsel do not oppose the relief requested in this Motion.

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to the non-registered participants as known this 29th day of September, 2023.

/s/ Joseph P. Rockers